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REMARKS

The present communication is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1 through 51 are pending in the application. Claims 1 through 51 have been rejected.

Claims 1 through 10, 17 through 24 and 32 through 40 have been canceled without prejudice or disclaimer. In making this cancellation without prejudice, Applicant reserves all rights in these claims to file in a divisional and/or continuation patent applications.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1 through 10, 17 through 24 and 32 through 40 under 35 U.S.C. § 102(e), as being anticipated by Gidwani (U.S. Patent No.6,640,239). Applicants respectfully traverse this rejection because the '239 reference neither teaches nor suggests all the limitations of the rejected claims. In the interest of expediting the prosecution and allowance of the present application, however, Applicant has elected to cancel without prejudice claims 1 through 10, 17 through 24 and 32 through 40. These cancellations were not made due to any cited prior art references, and in making these cancellations Applicant does not concede the patentability of these claims. Furthermore, Applicant reserves the right to file claims of similar or greater scope in a continuation application.

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35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 11 through 16, 25 through 31 and 41 through 51 under 35 U.S.C. § 103(a), as being unpatentable over Gidwani (U.S. Patent No. 6,310,632) in view of Krause (U.S. Patent No. 2003/0195983). Applicant respectfully traverses these rejections because a prima facie case of obviousness has not been established.

More specifically, Applicant traverses the Examiner's 103 rejections due to the fact the Examiner used an improper reference to support his argument.

As is well established patent law, a prior art reference must have an "effective date" (i.e. date of filing or date of publication) earlier than the filing date (or date of invention) of the claimed subject matter within an application against which the reference is cited. Contrary to the Examiner's assertions in the Final Office Action, The Krause reference's effective date, as it relates to Remote Dynamic Memory Access ("RDMA"), is **not the filing date of any of its parent applications**, but is in fact May 21, 2003, its own filing date. Applicant has reviewed the Krause Reference's parent applications and has found no mention of RDMA in these applications. Therefore, the Krause reference's effective date with respect to RDMA is May 21, 2003, which date is nearly two year after the filing date of the present application. Thus, the Krause reference may not be properly cited against any of the claims of the present application.

The Examiner had stated in the Office Action that "...the Krause reference, application #10442401 is a continuation in part of #09578019, filed on May 24, 2000, also #09578019 claims priority from provisional application 60135664, and 60154150. Therefore, application 10442401 inherits the benefit of prior date of provisional application 60135664, and 60154150...".

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Applicant wishes to cite the following passages from the Krause references:

- **Krause reference 10/442,401 recites in part:**

"[0001] This patent application is a Continuation-in-part of U.S. patent application Ser. No. 09/578,019, entitled "RELIABLE MULTICAST," filed May 24, 2000, and having Attorney Docket No. HP PDNO 10991834-2, which is herein incorporated by reference. U.S. patent application Ser. No. 09/578,019 is a Continuation-in-Part Application of U.S. patent application Ser. No. 09/578,155, filed May 23, 2000, entitled "RELIABLE DATAGRAM" having Attorney Docket No. HP PDNO 10991833-1 which is herein incorporated by reference. U.S. patent application Ser. No. 09/578,019 also claimed the benefit of the filing date of U.S. Provisional Patent Applications Serial No. 60/135,664, filed May 24, 1999 and having Attorney Docket No. HP PDNO 10991654-1; and Ser. No. 60/154,150, filed Sep. 15, 1999 and having Attorney Docket No. HP PDNO 10992562-1, both of which are herein incorporated by reference." (abstract)

- **Application 09/578,019 recites in part:**

"A reliable multicast service is operated between a source device and multiple destination devices participating in a multicast group. The source device includes a first source application instance (AI) producing a first unit of workstream, and communication services (CS). Each destination device in the multicast group includes CS, and at least one destination AI which consumes units of work. Communication services/fabric provide communication between the source device and the multiple destination devices. Multiple source and destination resources (SDRs) implement corresponding multiple reliable transport services between the source device and corresponding multiple destination devices in the multicast group for delivery of the first unit of work stream to the corresponding destination devices and guaranteeing strong ordering of the first unit of work stream received at the corresponding destination devices." (abstract)

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- **Application 09/578,155 recites in part:**

"A reliable datagram service is implemented with a source and destination resource (SDR). Source SDR resources, at a source device, multiplex units of work produced by at least one source application instance (AI) into a serial unit of work stream having units of work in a defined order and transmit the serial unit of work stream over a communication services/fabric. Destination SDR resources, at a destination device, receive the serial unit of work stream, demultiplex the serial unit of work stream into units of work provided to at least one destination AI, and provide a negative acknowledgement (NAK) for a unit of work received ahead of its defined order"(abstract)

- **MPEP 201.08:**

"A continuation-in-part is an application filed during the lifetime of an earlier nonprovisional application, repeating some substantial portion or all of the earlier nonprovisional application and adding matter not disclosed in the said earlier nonprovisional application. (In re Klein, 1930 C.D. 2, 393 O.G. 519 (Comm'r Pat. 1930))..."

After carefully reviewing the Krause references and its parent applications, it was found that parent Applications 09/578,019, 09/578,155 neither teach nor suggest the use of Remote Dynamic Memory Access ("RDMA"). The use of RDMA was not well known or understood on the filing dates of any of the parent applications, as is evidence by the fact that they are silent as to its use. Therefore, the Krause reference's effective date, as it relates to Remote Dynamic Memory Access ("RDMA"), is not the filing date of any of its parent applications, but is in fact May 21, 2003, its own filing date. As is well established patent law, a prior art reference must have an "effective date" (i.e. date of filing or date of publication) earlier than the filing date (or date of invention) of the claimed subject matter within an application against the reference is cited. Contrary to the Examiner's assertions in the Final Office Action, The Krause reference's effective date, as it relates to Remote Dynamic Memory Access ("RDMA"), is not the filing date of any of its parent applications, but is in fact May 21, 2003, its own filing date. Therefore, the Krause

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reference's effective date with respect to RDMA is May 21, 2003, which date is nearly two year after the filing date of the present application. Thus, the Krause reference may not be properly asserted against any of the pending claims of the present application and the Examiner's 103 rejections are thus flawed.

Applicant respectfully requests the Examiner to withdraw all of the 103 based rejections. In view of the amendments and remarks, all the pending claims (i.e. claims 11 through 16, 25 through 31 and 41 through 51) are considered to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3400.

Respectfully submitted,


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